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09/927,972	08/10/2001	Woodrow W. Grandy	68554/P001US/10801996	5997
29053	7590	10/23/2008	EXAMINER	
FULBRIGHT & JAWORSKI L.L.P			BLACK, LINH	
2200 ROSS AVENUE			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/927,972	GRANDY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LINH BLACK	2169	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 July 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 56-70 and 72-88 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 56-70 and 72-88 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 8/19/08.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

This communication is responsive to the Applicant's Remarks dated 7/7/08.

Claims 56-70, 72-88 are present in the application.

### ***Claim Objections***

Claim 72 is objected to because of the following informalities: it depends on a cancelled claim 71. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 56-77, 86-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak et al. (US 2002/0004729) in view of Walker et al. (US 20020170565 A1).

As per claim 56, Zak et al. teach

a system for capturing medical information, said system comprising: a database having pre-programmed screen presentations, each presentation containing information pertinent to a particular medical complaint – paragraphs 92-93; figs. 2-3, par. 76.

certain of said presentations having at least an HPI portion –figs. 3-4.

a screen presentation for allowing a user to identify a particular medical complaint – fig. 2.

wherein said system is operable for presenting to said user an ordered set of screen presentations; each said screen presentation of said ordered set of screen presentations containing multiple selectable information elements pertinent to an identified particular medical condition – figs. 3-5 (patient problem is abdominal flank pain – item 260; and related issues/elements are displayed in fig. 3.) However, Zak does not teach an ROS portion for a particular medical complaint. Walker et al. teach HPI, ROS, and PFSH elements appropriate to target diagnosis – par. 102, fig. 9a. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Walker's teaching with Zak's teaching in order to allow efficient ways of gathering and representing medical data to help users.

As per claim 57, Zak et al. teach

means for capturing medical information on a selected screen presentation by incorporating a state indicator on a plurality of pre-presented clinical items – figs. 2-3, including item 240.

As per claim 58, Zak et al. teach

means for capturing additional medical information associated with said plurality of pre-presented clinical items based upon an action taken by a user with respect to said pre-presented item – fig. 4 (pain is primary pain of crushing type and the complaint location(s) are body, chest.)

As per claim 59, Zak et al. teach

means for cueing the user that said additional medical information is available for selection, said cueing means associated with said pre-presented clinical item – figs. 5, 9 (more information relating to a complaint that such as seizures that users can select for answer.)

As per claim 60, Zak et al. teach

a portion having a pre-identified graphic of an anatomical area pertinent to said chief medical complaint – figs. 3-4.

As per claim 61, Zak discloses the label chest or body next to the display body parts – figs. 3-4. Zak et al. do not seem teach wherein said one or more labels are selectable information elements pertinent to an identified particular medical condition. Walker teaches wherein said graphic comprises one or more labels overlaid on said anatomical area, wherein said one or more labels are selectable information elements pertinent to

an identified particular medical condition – fig. 2, 11b; par. 40. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Walker's teaching with Zak's teaching in order to allow efficient data gathering and storage.

As per claim 62, Zak et al. teach

a plurality of different presentations pertaining to a single respective medical complaint, wherein said different presentations are selected from the list of: history, exam, course, Dx/DI – fig. 4; pars. 19, 38.

As per claim 63, Zak et al. teach

exam presentations contain listings of pre-presented clinical items representing possible clinical exam findings pertinent to said particular medical complaint – pars. 40, 54-55, 79.

As per claim 64, Zak et al. teach

wherein said course presentations contain listings of pre-presented clinical items representing possible clinical findings pertinent to said particular medical complaint – pars. 78-79, 81, 86.

As per claim 65, Zak et al. teach

wherein said possible clinical findings within said course presentations are selected

from: x-ray, laboratory, EKG, diagnostic procedure, procedure descriptions, therapeutic interventions, consultations, repeat examinations, admission notes – pars. 55, 76, 92.

As per claim 66, Zak et al. teach

wherein said Dx/DI presentations comprises listings of pre-presented clinical items representing possible, clinical impression findings, prescriptions, work excuse, discharge instructions, follow-up referrals, pertinent to said particular medical complaint – pars. 19, 70-71, 92; fig. 4.

As per claims 67-69, Zak et al. teach

generating a patient prescription, discharge instructions, work excuse based upon selections made within said Dx/DI presentation – pars. 91-92, fig. 6 (treatment, pt.meds, notes).

As per claim 70, Zak et al. teach

identifying to a computer controlled system a chief medical complaint of a patient – fig. 2.

said system selecting a template based upon said identified chief medical complaint; template having multiple screen presentations, a plurality of said template presentations having pre-identified selectable data elements pertaining to said chief medical complaint – fig. 3;

capturing medical history information pertaining to said patient on a first screen presentation of said selected template – fig. 4.

capturing...medical complaints – pars. 37, 75.

As per claim 71, Zak et al. teach

capturing physical exam information pertaining to said patient on a second screen presentation of said selected template – fig. 3, exam.

As per claim 72, Zak et al. teach:

capturing medical information pertaining to a course of treatment of said patient on a third screen presentation of said selected template – fig. 9; page 62.

said third screen...chief medical complaint – figs. 2, 6, 9-12 show multiple screens are displayed relating to a chief medical complaint; par. 75.

As per claim 73, Zak et al. teach

capturing medical information pertaining to the diagnosis and disposition of said patient on a fourth screen presentation of said selected template – fig. 8; pars. 15, 19.

said four screen...chief medical complaint - figs. 2, 6, 9-11 show different screens are displayed relating to a chief medical complaint.

As per claim 74, Zak et al. teach  
selecting one or more said pre-identified selectable data elements by marking said  
element with a state indicator – pars. 76, 91; par. 15.

As per claim 75, Zak et al. teach  
adding additional medical information in a space adjacent to one or more of said pre-  
identified selectable data elements – pars. 15, 41, 75.

As per claim 76, Zak et al. teach  
selecting said additional information...- fig. 9.

As per claim 77, Zak et al. teach  
generating a report in a textual prose representation based on the information  
correlated ...- pars. 52-55. However, Zak does not disclose at length regarding reports.  
Walker et al. teach textual reporting - figs. 19a-b. THus, it would have been obvious to  
one of ordinary skill in the art at the time of the invention to combine Zak's teaching with  
Walker's teaching in order to generate textual reports for better communications to  
patients etc...

Claims 86-88 claim the same subject matter as of previous claims and are rejected based on the same ground of rejection.

Claims 78, 80-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak et al. (US 2002/0004729) in view Huang (US 6384815).

As per claims 78, 83, Zak et al. teach

machine selection of a template based upon identification to said machine of a patient's chief medical complaint; said template having multiple screen presentations, a plurality of said presentations having pre-identified selectable data elements pertaining to said chief medical complaint – pars. 19, 37-40, 46; figs. 2-6, 9-11.

capturing by said machine a user's selection of said pre-identified selectable data elements, medical history information pertaining to said patient on a first selected screen presentation of said selected template, said first selected screen comprising a portion having a pre-identified graphic of an anatomical area pertinent to said chief medical complaint – paragraphs 92-93; figs. 2-4, par. 76.

However, Zak does not disclose circling or crossed out selections. Huang discloses text selections can be crossed out or encircled – col. 3, lines 15-50. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of circling or crossing function on text/label selections to further highlight performing tasks for better display or communications with users.

As per claims 80-81, Zak disclose several screens in the selected templates with pre-identified selectable elements - pars. 19, 37-40, 46; figs. 2-6, 9-11.

As per claim 82, Zak et al. teach capturing in a computer system...Dx/DI – fig. 4; pars. 19, 38-50 (patient information: drug treatments, focus complaints...); fig. 12, each form 100 contains four basis areas for display.

Claims 79, 84-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak et al. (US 2002/0004729) in view of Huang (US 6384815), and further in view of Walker et al. (US 20020170565 A1).

As per claim 79, Zak discloses the label chest or body next to the display body parts – figs. 3-4. Zak et al. and Huang do not seem teach wherein said one or more labels are selectable information elements pertinent to an identified particular medical condition. Walker teaches wherein said graphic comprises one or more labels overlaid on said anatomical area, wherein said one or more labels are selectable information elements pertinent to an identified particular medical condition – fig. 2, 11b; par. 40. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Walker's teaching with Zak's and Huang's teachings in order to allow efficient data gathering and storage.

As per claims 84-85, Zak and Huang et al. do not teach automatically generating a clinical report based upon a correlated compilation...including additional data associated with said pre-identified ....Walker discloses automatically generating a clinical report based upon a correlated compilation...including additional data associated with said pre-identified ...- pars. 129-130, 137; figs. 13-18.

### ***Response to Arguments***

Applicant's arguments filed 7/7/08 have been fully considered but they are not persuasive. Regarding Applicants' argument that Zak fails to teach an ROS portion for a particular medical complaint. Examiner disagrees. Zak discloses focus on a complaint – pars. 19, 38-40; Zak seems not disclose the limitation ROS. Walker discloses ROS portion appropriate to target diagnosis – par. 102, fig. 9a. Regarding the argument ROS portion of Walker is not for a particular complaint. Examiner disagrees. Walker does teach features for a chief complaint comprising ROS – pars. 10, 102 (...specific template will determine the HPI, ROS,...appropriate to the target diagnostic specific template so the physician will select the germane clinical features of a target disease)

In response to applicant's argument that Walker is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was

concerned, in order to be relied upon as a basis for rejection of the claimed invention.

See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Walker discloses patient encounter electronic medical record system – the title; it saves physicians time by integrating specific templates and portions of information that based on a subset of the diseases...- pars. 101,102

Regarding the arguments that the reporting is insufficient. Examiner disagrees. Zak seems allow the generating and displaying of reports on specific patient complaints and exam findings - pars. 38, 52-56. Walker also discloses the generating and displaying of textual reports - figs. 12-19.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINH BLACK whose telephone number is 571-272-4106. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trujillo can be reached on 571-272-3677. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LINH BLACK  
Examiner  
Art Unit 2169

October 11, 2008  
/HUNG Q. PHAM/  
Primary Examiner, Art Unit 2169